



February 25, 2003

SENATE BILL No. 417

DIGEST OF SB 417 (Updated February 24, 2003 10:46 AM - DI 110)

Citations Affected: IC 6-1.1; IC 6-3.1.

Synopsis: Coal combustion tax credit and deduction. Creates a tax credit for manufacturers who purchase and use components manufactured in Indiana and composed of at least 15% coal combustion waste. Creates a tax deduction for manufacturers of components composed of at least 15% coal combustion waste.

Effective: January 1, 2003 (retroactive).

Waterman

January 21, 2003, read first time and referred to Committee on Commerce and Consumer Affairs.
February 24, 2003, amended, reported favorably — Do Pass; reassigned to Committee on Finance.

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SB 417—LS 7736/DI 103+



February 25, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 417

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-44 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2003 (RETROACTIVE)]:

4 **Chapter 44. Deduction for Purchases of Investment Property by**
5 **Manufacturers of Recycled Components**

6 **Sec. 1. As used in this chapter, "coal combustion product"**
7 **means the byproducts resulting from the combustion of coal in a**
8 **facility located in Indiana. The term includes boiler slag, bottom**
9 **ash, fly ash, and scrubber sludge.**

10 **Sec. 2. As used in this chapter, "investment property" means**
11 **depreciable personal property that a manufacturer purchases and**
12 **uses to manufacture recycled components.**

13 **Sec. 3. (a) As used in this chapter, "manufacturer" means a**
14 **taxpayer that:**

15 **(1) obtains and uses coal combustion products for:**

16 **(A) the permissible purposes listed under IC 13-19-3-3(2);**

17 **(B) the manufacturing of recycled components; or**

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(C) agricultural purposes; and
 (2) is at least one (1) of the following:

(A) A new business.

(B) An existing business that, during the taxable year in which the taxpayer claims a credit under this chapter, expands the business's manufacturing process to manufacture recycled components.

(C) An existing business that:

(i) manufactures recycled components; and

(ii) during the taxable year in which the taxpayer claims a credit under this chapter, increases purchases of coal combustion products by the amount determined in subsection (b).

(b) To be within the definition set forth in subsection (a), a taxpayer described in subsection (a)(2)(C) must increase the taxpayer's purchases of coal combustion products by the amount determined in STEP THREE of the following STEPS:

STEP ONE: Determine the amount of the taxpayer's purchases of coal combustion products for each of the three (3) taxable years immediately preceding the taxable year in which the taxpayer claims a credit under this chapter.

STEP TWO: Determine the largest amount determined under STEP ONE.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) one-tenth (0.1).

Sec. 4. As used in this chapter, a unit of materials, goods, or other tangible personal property is a "recycled component" if coal combustion products constitute at least fifteen percent (15%) of weight of the substances of which the unit is composed. Recycled components include masonry construction products (including portland cement based mortar), normal and lightweight concrete, blocks, bricks, pavers, pipes, prestressed concrete products, filter media, and other products approved by the Center for Coal Technology Research established under IC 4-4-30.

Sec. 5. (a) A manufacturer is entitled to a deduction from the assessed valuation of the investment property in the first year that the investment property is subject to assessment under this article.

(b) The amount of a deduction described in subsection (a) equals the product of:

(1) the assessed value of the investment property; multiplied by



(2) fifteen-hundredths (0.15).

Sec. 6. To obtain a deduction under this chapter, a manufacturer must file an application with the auditor of the county in which the investment property is subject to assessment information and proof of the purchase of the investment property.

Sec. 7. A taxpayer who obtains a credit under IC 6-3.1-25 may not obtain a deduction under this chapter in a taxable year.

SECTION 2. IC 6-3.1-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

Chapter 25. Coal Combustion Product Tax Credit

Sec. 1. As used in this chapter, "coal combustion product" means the byproducts resulting from the combustion of coal in a facility located in Indiana, including a fluidized bed boiler. The term includes boiler slag, bottom ash, fly ash, and scrubber sludge.

Sec. 2. (a) As used in this chapter, "manufacturer" means a taxpayer that:

(1) obtains and uses coal combustion products for:

(A) the permissible purposes listed in IC 13-19-3-3(2);

(B) the manufacturing of recycled components; or

(C) agricultural purposes; and

(2) is one (1) of the following:

(A) A new business.

(B) An existing business that, during a taxable year in which the taxpayer claims a credit under this chapter, begins manufacturing recycled components.

(C) An existing business that:

(i) manufactures recycled components; and

(ii) during a taxable year in which the taxpayer claims a credit under this chapter, increases acquisitions of coal combustion products by the amount determined in subsection (b).

(b) A manufacturer described in subsection (a)(2)(C) must increase the manufacturer's acquisitions of coal combustion products by the amount determined in STEP THREE of the following STEPS:

STEP ONE: Determine the total amount of coal combustion products obtained by the manufacturer for each of the three (3) taxable years immediately preceding the taxable year in which the manufacturer claims a credit under this chapter.

STEP TWO: Determine the largest amount determined under STEP ONE.



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STEP THREE: Determine the product of:

- (A) the STEP TWO amount; multiplied by
- (B) one-tenth (0.1).

Sec. 3. As used in this chapter, a unit of materials, goods, or other tangible personal property is a "recycled component" if coal combustion products constitute at least fifteen percent (15%) by weight of the substances of which the unit is composed. Recycled components include masonry construction products (including portland cement based mortar), normal and lightweight concrete, blocks, bricks, pavers, pipes, prestressed concrete products, filter media, and other products approved by the Center for Coal Technology Research established under IC 4-4-30.

Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as computed after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 5. (a) A manufacturer is entitled to a credit against the manufacturer's state tax liability as follows:

- (1) In the case of a manufacturer described under section 2(a)(2)(A) or 2(a)(2)(B), the amount of the credit is equal to:

- (A) the number of tons of coal combustion products obtained and used by the manufacturer in the taxable year; multiplied by
- (B) two dollars (\$2).

- (2) In the case of a manufacturer under section 2(a)(2)(C) of this chapter, the amount of the credit is equal to:

- (A) the difference between:
 - (i) the number of tons of coal combustion products obtained and used by the manufacturer in the taxable year; and
 - (ii) the amount determined in STEP TWO of section 2(b) of this chapter; multiplied by
- (B) two dollars (\$2).

(b) The total amount of credits allowed under this chapter may not exceed in the aggregate two million dollars (\$2,000,000) for all taxpayers per state fiscal year.

(c) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.

(d) The department shall record the time of filing of each return claiming a credit under this section and shall, except as provided



in subsection (e), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the state fiscal year.

(e) If the total credits approved under this section equal the maximum amount allowable in the state fiscal year, a return claiming the credit filed later in that same state fiscal year may not be approved. However, if an applicant for whom a credit has been approved fails to file the information required by subsection (c) of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to the next eligible applicant or applicants until the total amount has been allowed. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

Sec. 6. (a) If a manufacturer that claims a credit under this chapter is a pass through entity that does not have state tax liability for a taxable year against which the credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a credit equal to:

- (1) the credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

(b) If the amount determined under subsection (a) exceeds the state tax liability of the shareholder, partner, or member, the shareholder, partner, or member may not carry over the excess to following taxable years.

Sec. 7. A manufacturer with a facility located in Indiana may claim a credit under this chapter in each of ten (10) consecutive taxable years beginning with the taxable year in which the manufacturer first claims the credit under this chapter.

Sec. 8. (a) If the amount determined under section 5 of this chapter for a taxable year exceeds the manufacturer's state tax liability for the taxable year, the manufacturer may not carry over the excess to following taxable years.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 9. To obtain a credit under this chapter, the manufacturer must file with the department information that the department determines is necessary for the calculation of the credit provided



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1 under this chapter. The department shall keep a list that includes:

2 (1) the name of each manufacturer who receives a credit
3 under this chapter and IC 6-1.1-44; and

4 (2) the amount of each credit for the manufacturer in the
5 taxable year;

6 and provide the list annually to the Center for Coal Technology
7 Research established under IC 4-4-30.

8 Sec. 10. A taxpayer who obtains a deduction under IC 6-1.1-44
9 may not obtain a credit under this chapter for the same taxable
10 year.

11 SECTION 3. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill No. 417, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, insert:

"SECTION 1. IC 6-1.1-44 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

Chapter 44. Deduction for Purchases of Investment Property by Manufacturers of Recycled Components

Sec. 1. As used in this chapter, "coal combustion product" means the byproducts resulting from the combustion of coal in a facility located in Indiana. The term includes boiler slag, bottom ash, fly ash, and scrubber sludge.

Sec. 2. As used in this chapter, "investment property" means depreciable personal property that a manufacturer purchases and uses to manufacture recycled components.

Sec. 3. (a) As used in this chapter, "manufacturer" means a taxpayer that:

- (1) obtains and uses coal combustion products for:
 - (A) the permissible purposes listed under IC 13-19-3-3(2);
 - (B) the manufacturing of recycled components; or
 - (C) agricultural purposes; and
- (2) is at least one (1) of the following:
 - (A) A new business.
 - (B) An existing business that, during the taxable year in which the taxpayer claims a credit under this chapter, expands the business's manufacturing process to manufacture recycled components.
 - (C) An existing business that:
 - (i) manufactures recycled components; and
 - (ii) during the taxable year in which the taxpayer claims a credit under this chapter, increases purchases of coal combustion products by the amount determined in subsection (b).

(b) To be within the definition set forth in subsection (a), a taxpayer described in subsection (a)(2)(C) must increase the taxpayer's purchases of coal combustion products by the amount determined in STEP THREE of the following STEPS:

STEP ONE: Determine the amount of the taxpayer's



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purchases of coal combustion products for each of the three (3) taxable years immediately preceding the taxable year in which the taxpayer claims a credit under this chapter.

STEP TWO: Determine the largest amount determined under STEP ONE.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) one-tenth (0.1).

Sec. 4. As used in this chapter, a unit of materials, goods, or other tangible personal property is a "recycled component" if coal combustion products constitute at least fifteen percent (15%) of weight of the substances of which the unit is composed. Recycled components include masonry construction products (including portland cement based mortar), normal and lightweight concrete, blocks, bricks, pavers, pipes, prestressed concrete products, filter media, and other products approved by the Center for Coal Technology Research established under IC 4-4-30.

Sec. 5. (a) A manufacturer is entitled to a deduction from the assessed valuation of the investment property in the first year that the investment property is subject to assessment under this article.

(b) The amount of a deduction described in subsection (a) equals the product of:

(1) the assessed value of the investment property; multiplied by

(2) fifteen-hundredths (0.15).

Sec. 6. To obtain a deduction under this chapter, a manufacturer must file an application with the auditor of the county in which the investment property is subject to assessment information and proof of the purchase of the investment property.

Sec. 7. A taxpayer who obtains a credit under IC 6-3.1-25 may not obtain a deduction under this chapter in a taxable year."

Page 1, line 4, after "Combustion" insert **"Product"**.

Page 1, line 4, delete "Credits" and insert **"Credit"**.

Page 1, delete lines 5 through 8.

Page 1, line 9, delete "2." and insert **"1."**

Page 1, line 11, delete "power generating plant." and insert **"facility located in Indiana, including a fluidized bed boiler."**

Page 1, line 11, after "includes" insert **"boiler slag,"**.

Page 1, delete lines 13 through 17.

Page 2, delete lines 1 through 2.

Page 2, line 3, delete "4." and insert **"2. (a)"**.

Page 2, delete lines 5 through 8, begin a new line block indented and

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insert:

- "(1) obtains and uses coal combustion products for:**
(A) the permissible purposes listed in IC 13-19-3-3(2);
(B) the manufacturing of recycled components; or
(C) agricultural purposes; and
(2) is one (1) of the following:
(A) A new business.
(B) An existing business that, during a taxable year in which the taxpayer claims a credit under this chapter, begins manufacturing recycled components.
(C) An existing business that:
(i) manufactures recycled components; and
(ii) during a taxable year in which the taxpayer claims a credit under this chapter, increases acquisitions of coal combustion products by the amount determined in subsection (b).

(b) A manufacturer described in subsection (a)(2)(C) must increase the manufacturer's acquisitions of coal combustion products by the amount determined in STEP THREE of the following STEPS:

STEP ONE: Determine the total amount of coal combustion products obtained by the manufacturer for each of the three (3) taxable years immediately preceding the taxable year in which the manufacturer claims a credit under this chapter.

STEP TWO: Determine the largest amount determined under STEP ONE.

STEP THREE: Determine the product of:

- (A) the STEP TWO amount; multiplied by**
(B) one-tenth (0.1)."

Page 2, line 9, delete "5." and insert "3."

Page 2, line 11, delete "fifty percent (50%)" and insert "**fifteen percent (15%) by weight**".

Page 2, line 12, after "composed." insert "**Recycled components include masonry construction products (including portland cement based mortar), normal and lightweight concrete, blocks, bricks, pavers, pipes, prestressed concrete products, filter media, and other products approved by the Center for Coal Technology Research established under IC 4-4-30.**

Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as computed after the application of all credits that under IC 6-3.1-1-2 are to be applied



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before the credit provided by this chapter."

Page 2, delete lines 13 through 19.

Page 2, line 20, delete "7." and insert "**5. (a)**".

Page 2, line 21, delete "in an amount equal to:" and insert "**as follows:**

(1) In the case of a manufacturer described under section 2(a)(2)(A) or 2(a)(2)(B), the amount of the credit is equal to:

(A) the number of tons of coal combustion products obtained and used by the manufacturer in the taxable year; multiplied by

(B) two dollars (\$2).

(2) In the case of a manufacturer under section 2(a)(2)(C) of this chapter, the amount of the credit is equal to:

(A) the difference between:

(i) the number of tons of coal combustion products obtained and used by the manufacturer in the taxable year; and

(ii) the amount determined in STEP TWO of section 2(b) of this chapter; multiplied by

(B) two dollars (\$2).

(b) The total amount of credits allowed under this chapter may not exceed in the aggregate two million dollars (\$2,000,000) for all taxpayers per state fiscal year.

(c) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.

(d) The department shall record the time of filing of each return claiming a credit under this section and shall, except as provided in subsection (e), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the state fiscal year.

(e) If the total credits approved under this section equal the maximum amount allowable in the state fiscal year, a return claiming the credit filed later in that same state fiscal year may not be approved. However, if an applicant for whom a credit has been approved fails to file the information required by subsection (c) of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to the next eligible applicant or applicants until the total amount has been allowed. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next

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succeeding state fiscal year.

Sec. 6. (a) If a manufacturer that claims a credit under this chapter is a pass through entity that does not have state tax liability for a taxable year against which the credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a credit equal to:

- (1) the credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

(b) If the amount determined under subsection (a) exceeds the state tax liability of the shareholder, partner, or member, the shareholder, partner, or member may not carry over the excess to following taxable years.

Sec. 7. A manufacturer with a facility located in Indiana may claim a credit under this chapter in each of ten (10) consecutive taxable years beginning with the taxable year in which the manufacturer first claims the credit under this chapter.

Sec. 8. (a) If the amount determined under section 5 of this chapter for a taxable year exceeds the manufacturer's state tax liability for the taxable year, the manufacturer may not carry over the excess to following taxable years.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit."

Page 2, delete lines 22 through 29.

Page 2, line 30, delete "8." and insert "9."

Page 2, line 33, after "chapter." insert "The department shall keep a list that includes:

- (1) the name of each manufacturer who receives a credit under this chapter and IC 6-1.1-44; and
- (2) the amount of each credit for the manufacturer in the taxable year;

and provide the list annually to the Center for Coal Technology Research established under IC 4-4-30.

Page 2, line 30, delete "taxpayer" and insert "manufacturer".

Page 2, delete lines 34 through 35, begin a new paragraph and insert:

"Sec. 10. A taxpayer who obtains a deduction under IC 6-1.1-44 may not obtain a credit under this chapter for the same taxable

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year."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Finance.

(Reference is to SB 417 as introduced.)

SERVER, Chairperson

Committee Vote: Yeas 6, Nays 0.

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